IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

IVORY JOE TISDALE,)	
)	
Petitioner,)	
)	
v.)	1:06CV00429
)	
THEODIS BECK,)	
)	
Respondent.)	

O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on May 10, 2006, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that this action be dismissed without prejudice to Petitioner seeking to amend his pending petition. A judgment dismissing this action will be

entered contemporaneously with this Order. In view of this ruling, Petitioner's motion to dismiss Claim 2 [Pleading No. 5] is moot.

United States District Judge

Date: June 9, 2006